

Thomas



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Automated Laundry Systems & Supply

File: B-270810.2

Date: January 18, 1996

DECISION

Automated Laundry Systems & Supply protests the award of a contract to New Era Company by the Defense Logistics Agency under requests for proposals No. SPO441-94-R-3620. Automated contends that New Era cannot meet the specifications.

We dismiss the protest.

Automated filed an agency-level protest on June 22, 1995. According to information provided by Automated, the agency denied Automated's protest in a letter dated July 3. However, Automated states that it did not receive the agency's response until December 18. This protest was filed on January 3, 1996.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. Under these rules, where a protest was filed with the contracting agency, any subsequent protest to our Office must be filed within 14 days of actual or constructive knowledge of initial adverse agency action on the protest at that level. Section 21.2(a)(3), 60 Fed. Reg. 20,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.2(a)(3)).

While adverse action typically is a denial of the protest, it may also be undue delay on the part of the agency in responding to the protest. See Section 21.0(f), 60 Fed. Reg. supra, (to be codified at 4 C.F.R. § 21.0(f)); 52 Comp. Gen. 792 (1973). Here, the agency delayed more than 6 months in responding to Automated's agency-level protest, a delay that we consider to be adverse action. Illitron, B-192309, Aug. 7, 1978, 78-2 CPD ¶ 100 (delay of 3 months is adverse action). In other words,

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at some point Automated should have treated the agency's failure to respond as adverse action and then protested here. The January 3 protest filing simply is too late to satisfy our bid protest timeliness rule.

In any case, even if we start the time for filing with Automated's December 18, 1995, receipt of the agency's response to its protest, Automated should have filed in our Office no later than January 2, 1996, 14 calendar days later.

The protest is dismissed.

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